

110TH CONGRESS
2D SESSION

S. 3418

To prohibit discrimination in State taxation of multichannel video programming distribution services.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2008

Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To prohibit discrimination in State taxation of multichannel video programming distribution services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “State Video Tax Fair-
5 ness Act of 2008”.

6 **SEC. 2. PROHIBITION.**

7 No State shall impose a discriminatory tax on any
8 means of providing multichannel video programming dis-
9 tribution services, including Internet protocol technology

1 (or any successor protocol), direct broadcast satellite deliv-
 2 ery, and cable television services.

3 **SEC. 3. DISCRIMINATORY TAX.**

4 (a) DETERMINATION OF DISCRIMINATORY TAX.—

5 For the purposes of this Act, a tax is discriminatory if
 6 the net tax rate imposed on one means of providing multi-
 7 channel video service is higher than the net tax rate im-
 8 posed on another.

9 (b) NET TAX RATE.—The net tax rate imposed on
 10 multichannel video service includes any charge levied by
 11 a State legislature or other statewide taxing authority with
 12 respect to, or measured by, the charges, receipts, or reve-
 13 nues from, the provision of multichannel video service, to
 14 generate revenues for governmental purposes. The net tax
 15 rate is the effective rate paid by the provider or its cus-
 16 tomers for the service, offset by any exemption, deduction,
 17 credit, incentive, subsidy, or exclusion that diminishes the
 18 effective rate.

19 (c) EXCLUSION AND LIMITATION.—

20 (1) The net tax rate imposed on multichannel
 21 video service does not include any obligation by any
 22 name, whether a duty, fee, charge, payment, or tax,
 23 or other payment obligation, imposed or collected, in
 24 whole or in part, as consideration for, or as a condi-
 25 tion related to, the acquisition of a property right or

1 other item or service of value that is paid directly or
 2 indirectly to any State or local taxing authority.

3 (2) For purposes of paragraph (1), a service
 4 provider is deemed to be paying such an obligation
 5 indirectly to governmental units if, and to the extent
 6 that—

7 (A) governmental units had previously im-
 8 posed the obligation on, or collected the obliga-
 9 tion from, the service provider or its customers;

10 (B) the State abolished or limited the obli-
 11 gation;

12 (C) revenues collected from the payment of
 13 the obligation are directed to a fund other than
 14 the general fund; and

15 (D) the fund is directed in whole or in part
 16 to compensate the governmental units that had
 17 previously imposed or collected the obligation
 18 for lost revenue.

19 **SEC. 4. EXCEPTION.**

20 (a) **CURRENT TAXES.**—The prohibition contained in
 21 this Act shall not apply to any tax that was imposed in
 22 its current form before January 1, 2008. Nothing in this
 23 section shall preclude any such tax from being ruled dis-
 24 criminatory or otherwise illegal on any basis other than
 25 the prohibition contained in this Act and nothing in this

1 section shall affect the outcome or remedy of any pending
2 or future litigation invoking other provisions of law.

3 (b) INTERPRETATION.—Nothing in this section shall
4 be interpreted to mean that discriminatory taxes in the
5 multichannel video programming marketplace are accept-
6 able. It is the sense of Congress that such discrimination
7 effectively stifles competition to the detriment of all con-
8 sumers, and that states that have adopted discriminatory
9 regimes should repeal them forthwith, even if not obligated
10 to do so under this Act.

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